

No. 1425

United States Circuit Court of Appeals

FOR THE NINTH CIRCUIT.

PUGET SOUND NAVIGATION COMPANY (a Corporation),

Plaintiff in Error,

vs.

MARY R. LAVENDER, CHARLES STANLEY and
SAMUEL BARLOW,

Defendants in Error.

Upon Writ of Error to the United States Circuit
Court for the Western District of Wash-
ington, Northern Division.

PETITION FOR REHEARING.

BYERS & BYERS,

Counsel for the Defendants in Error.

FILED

*United States Circuit Court of Appeals for the
Ninth Circuit.*

No. 1425.

PUGET SOUND NAVIGATION COMPANY (a
Corporation),

Plaintiff in Error,

vs.

MARY R. LAVENDER, CHARLES STANLEY
and SAMUEL BARLOW,

Defendants in Error.

Petition for Rehearing.

Comes now the defendant in error, Mary R. Lavender, and petitions the Court for a rehearing of the above-entitled action on the ground and for the reason that the said action was originally brought in the Superior Court of the State of Washington, and in the said original complaint the Puget Sound Navigation Company, a corporation, was alleged to be a citizen of the State of Oregon and that the said action was removed on petition and affidavit by the plaintiff in error, the Puget Sound Navigation Company, upon the ground of diversity of citizenship, in which petition for removal it was alleged under oath as follows:

“That the controversy herein is between citizens of different states; that the plaintiff, Mary R. Lavender, was at the time of the commencement of this suit, and still is, a citizen of the State of Washington, residing at Seattle, in said State, and that the petitioner herein, the Puget Sound Navigation Company, a corporation, was at the time of the commencement of this suit, and still is, a citizen of the State of Oregon, and of no other State, having its principal place of business in the city of Portland, in said State,” and which allegation was not denied by the defendant in error.

That a motion to remand to the Superior Court of the State of Washington was made by the defendant in error, Mary R. Lavender, and denied by the United States Circuit Court, and all of which appears as the files of record in the United States Circuit Court in the above-entitled action, showing affirmatively the jurisdiction of said court.

Defendant in error further petitions that the costs of said appeal be allowed to the defendant in error herein, Mary R. Lavender, and defendant in error further petitions the Court to be allowed to file a supplemental record herein showing said original complaint filed in the Superior Court of King County, State of Washington, which complaint is now on file and of the files and records in the United States Circuit Court, the petition for removal filed

by the plaintiff in error, the Puget Sound Navigation Company, verified under oath, the motion to remand made by the defendant in error, Mary R. Lavender, in the Circuit Court for the Western District of Washington, and the order denying said motion to remand, which portions of said record were omitted by inadvertence and oversight from the original transcript of record of said cause filed in this court.

BYERS & BYERS,
Counsel for Defendant in Error.

State of Washington,
County of King,—ss.

Ovid A. Byers, being duly sworn, deposes and says, that he is one of the counsel for the defendant in error, Mary R. Lavender; that he has read the foregoing petition, knows the contents thereof, and that in his judgment it is well founded, and that the said petition is not interposed for delay.

OVID A. BYERS.

Subscribed and sworn to before me this 18th day of Oct., 1907.

[Seal]

ALPHEUS BYERS,
Notary Public, Residing at Seattle, Washington.

